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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,255	10/27/2003	Sjaak Schel	1316N-001689	2693
27572	7590	03/16/2005	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			SY, MARIANO ONG	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,255

Applicant(s)

SCHEL, SJAAK

Examiner

Mariano Sy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The amendment filed on January 28, 2005 has been received.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 7-12, 14-18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Sawai (US 6,511,085).

Re-claims 1-4, 7, 10-12, 14-18, and 20 Sawai disclosed, as shown in fig. 3, a damper comprising: a pressure tube 90 defining a working chamber; a piston 118 dividing said working chamber into a lower working chamber 100 and an upper working chamber 116, said upper working chamber being sealed to eliminate all direct communication between said upper chamber and an environment outside said damper; a piston rod 134 defining a cavity 162; and a compensator 156 disposed within said cavity, said compensator being stationary with respect to said pressure tube; a connecting rod 152 extending between said compensator and said pressure tube; said connecting rod being attached to an end cap 94; said compensator sealingly 158 engages said piston rod; wherein said compensator is in communication with the other

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of said upper and lower working chambers; a flow path 122,124 extending through said piston; a compression valve assembly 128 and an extension valve assembly 126 are attached to said piston; wherein said piston defines a vent hole in communication with said cavity.

Re-claim 8 Sawai disclosed, as shown in fig. 2-3, wherein the piston rod defines a vent hole extending between said cavity and an environment (which can be passage 218 connecting to pressure regulator 86) surrounding said damper.

Re-claim 9 Sawai disclosed, as shown in fig. 2-3, wherein said compensator 156 sealingly engages said piston rod 152, see col. 7, lines 8-12.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawai in view of Handke et al. (US 4,328,960).

Re-claim 5 Sawai disclosed, as shown in fig. 3, wherein the piston rod defines a vent hole extending between the cavity and an environment surrounding said damper.

However Sawai failed to disclose failed to disclose the vent hole extending between the cavity and atmospheric pressure.

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Handke et al. teaches that it is also possible to provide pneumatic damping instead of hydraulic damping, see col. 7, lines 3-5.

One of ordinary skill in the art would have modify the damping unit of Sawai by utilizing a damper as a single unit (without hydraulic fluid connection to the pressure regulator 86 as shown in fig. 2) with the chamber 162 venting out to the atmosphere, which will provide as a pneumatic damping, as taught by Handke et al., in order to vary the damping characteristic of the damper, since the damper (use as a single unit) can still function effectively by itself.

Re-claim 6 Sawai disclosed, as shown in fig. 2-3, wherein said compensator 156 sealingly engages said piston rod 152, see col. 7, lines 8-12.

6. Claims 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawai in view of Sugiura (US 3,784,179).

Re-claims 13 and 19 Sawai failed to disclose wherein said flow path on said piston is an open flow path.

Sugiura teaches, as shown in fig. 1, a piston 12 having open flow path 15.

It would have been obvious to one of ordinary skill in the art to have modify the piston of Sawai with open flow path, as taught by Sugiura, in order to enhance variation characteristics of damping force.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sawai in view of Handke et al. (US4,328,960).

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Re-claim 21 Sawai disclosed, as shown in fig. 3, a damper comprising: a pressure tube 90 defining a working chamber filled with hydraulic fluid; a piston 118 defining a piston surface area defined by the outer circumference of said piston, said piston dividing said working chamber into a lower working chamber 100 and an upper working chamber 116, said upper working chamber being sealed to eliminate all direct communication between said upper chamber and an environment outside said damper; and a piston rod 134 extending through one of said upper and lower working chambers; wherein a surface area of said piston exposed to said fluid in the other of said upper and lower working chambers is less than said piston surface area.

However Sawai failed to disclose the working chamber is filled with compressed fluid.

Handke et al. teaches that a damper can be provided with a pneumatic damping instead of a hydraulic damping, see col. 7, lines 3-5.

It is well known in the art that it is possible to provide a pneumatic damping instead of a hydraulic damping in a fluid damping device as taught by Handke et al. It would have been obvious to one of ordinary skill in the art to have modify the damper of Sawai with pneumatic fluid is a matter of design choice depending upon the size and cost of the application.

8. Applicant's arguments with respect to claims 1, 14, and 21 have been considered but are moot in view of the new ground(s) of rejection.

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9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427. The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

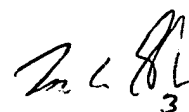
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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 M. Sy

March 7, 2005

  
3/10/2005  
MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310